

MAR 10 2008

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

MOLLY DWYER, ACTING CLERK
U.S. COURT OF APPEALS

FOR THE NINTH CIRCUIT

DAVID GAKIA LAHAMENDU,

Petitioner,

v.

MICHAEL B. MUKASEY, Attorney
General,

Respondent.

No. 05-70312

Agency No. A95-630-040

MEMORANDUM^{*}

On Petition for Review of an Order of the
Board of Immigration Appeals

Submitted February 26, 2008^{**}

Before: BEEZER, FERNANDEZ, and McKEOWN, Circuit Judges.

David Gakia Lahamendu, a native and citizen of Indonesia, petitions for review of the Board of Immigration Appeals' ("BIA") summary affirmance of an Immigration Judge's ("IJ") order denying his application for asylum, withholding

^{*} This disposition is not appropriate for publication and is not precedent except as provided by 9th Cir. R. 36-3.

^{**} The panel unanimously finds this case suitable for decision without oral argument. *See* Fed. R. App. P. 34(a)(2).

of removal, and relief under the Convention Against Torture (“CAT”). We have jurisdiction pursuant to 8 U.S.C. § 1252. We review for substantial evidence, *see Nagoulko v. INS*, 333 F.3d 1012, 1015 (9th Cir. 2003), and we deny the petition.

The record does not compel the conclusion that Lahamendu’s untimely filing of his asylum application should be excused. *See* 8 C.F.R. § 208.4(a)(4)-(5). Accordingly, we deny the petition as to Lahamendu’s asylum claim.

With regard to the claim for withholding of removal, substantial evidence supports the IJ’s finding that Lahamendu has not demonstrated a clear probability of future persecution. *See Lolong v. Gonzales*, 484 F.3d 1173, 1179-81 (9th Cir. 2007) (en banc) (petitioner failed to demonstrate the existence of a pattern and practice of persecution); *Maroufi v. INS*, 772 F.2d 597, 599-600 (9th Cir. 1985) (petitioner failed to demonstrate that he would be singled out for future persecution).

Substantial evidence also supports the IJ’s denial of CAT relief because Lahamendu did not show that it is more likely than not that he would be tortured if returned to Indonesia. *See Singh v. Gonzales*, 439 F.3d 1100, 1113 (9th Cir. 2006).

Finally, we deny Lahamendu’s request to remand for review of evidence regarding current country conditions in Indonesia. If Lahamendu would like the IJ

to review such evidence, he should file a motion to reopen with the BIA. *See* 8 C.F.R. § 1003.2(c); *Malty v. Ashcroft*, 381 F.3d 942, 944-47 (9th Cir. 2004).

PETITION FOR REVIEW DENIED.